

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF SCHMIDT, INC.)	
D/B/A PLEASANT VIEW SUBDIVISION)	
FOR A RATE ADJUSTMENT PURSUANT TO)	CASE NO. 92-370
THE ALTERNATIVE RATE FILING)	
PROCEDURE FOR SMALL UTILITIES)	

O R D E R

This matter arising upon petition of Schmidt, Inc. d/b/a Pleasant View Subdivision ("Schmidt") filed August 26, 1992 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its 1990 federal income tax return Form 1120A and its 1990 Kentucky income tax return Form 720 on the grounds that the tax returns relate to information that has no relationship to Schmidt's utility operations, and it appearing to this Commission as follows:

Schmidt operates a wastewater treatment plant in the Pleasant View Subdivision in Henderson County and also owns several rental properties. The income tax returns reflect the operation results of the wastewater treatment plant and the rental properties and by this petition, Schmidt seeks to protect the information relating to the rental properties alone.

Information filed with the Commission is required by KRS 61.872 to be open for public inspection unless otherwise exempted by statute. Exemptions from this requirement are provided in KRS 61.878 which lists 10 categories of information which may be protected as confidential. To qualify for an exemption, it must be

established that the information sought to be protected falls within one of the listed categories.


Relevancy of the information to the subject matter of a proceeding in which the information is sought is not a category protected from disclosure under the statute. However, KRS 61.878(1)(j) exempts from the Kentucky Open Records Act "public records or information, the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly." Similarly, KRS 61.878(1)(i) exempts from the Act "all public records or information, the disclosure of which is prohibited by federal law or regulation." KRS 131.190(1) makes confidential income tax returns filed with this state. Its federal counterpart, 26 USCA §6103, makes confidential federal income tax returns. Therefore, both federal and state income tax returns are exempt from disclosure under the Act and upon proper petition should not be made available for public inspection.

This Commission being otherwise sufficiently advised,

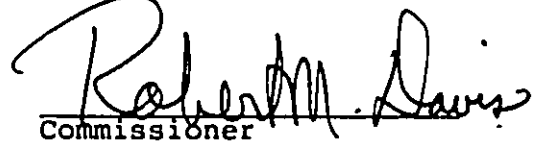
IT IS ORDERED that the 1990 federal income tax return Form 1120A and the 1990 Kentucky income tax return Form 720, which Schmidt has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 21st day of September, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director